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EXTRAORDINARY

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PART II—Section 2

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इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 28th February, 1992:—

BILL No. 35 OF 1992

A Bill further to amend the Copyright Act, 1957.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Copyright (Amendment) Act, 1992.

Short title
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the 28th day of 5 December, 1991.

14 of 1957.

2. In Chapter V of the Copyright Act, 1957 (hereinafter referred to as the principal Act), for the words "fifty years" wherever they occur, the words "sixty years" shall be substituted.

Amend-
ment of
Chapter
V.

3. For the removal of doubts, it is hereby declared that copyright shall not subsist by virtue of this Act in any work in which copyright did not subsist immediately before the commencement of this Act.

Copyright
not to
subsist
if term
has ex-
pired.

Ord. 9 of
1991.

4. (1) The Copyright (Amendment) Ordinance, 1991 is hereby repealed.

Repeal
and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The term of copyright under the Copyright Act, 1957 is up to the end of the calendar year in which fifty years are completed. This term starts from the year in which the author dies in the case of literary, dramatic, musical and artistic works (other than photographs) published within the life-time of the author, but starts from the year of publication in most other cases.

2. Gurudev Rabindranath Tagore died in the year 1941 and copyright in his published works, which stood vested in Visva Bharati, was to expire on 31st December, 1991. There had been numerous demands for according extended protection to his works in view of their national importance. While it was not considered feasible and appropriate to extend the term of copyright in respect of one author alone, the Government reviewed the whole question of what should be the appropriate term of copyright and decided to extend the term of copyright generally in all works protected by the Copyright Act, 1957 from fifty to sixty years. This was, however, not to apply to works which had already entered the public domain before 31st December, 1991.

3. The Copyright (Amendment) Ordinance, 1991 was, therefore, promulgated by the President on 28th December, 1991.

4. The Bill seeks to replace the said Ordinance and to achieve the aforesaid objects.

NEW DELHI;
The 21st February, 1992.

ARJUN SINGH.

BILL No. 30 OF 1992

A Bill further to amend the Indian Red Cross Society Act, 1920.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Red Cross Society (Amendment) Act, 1992.

Short
title and
commence-
ment.

(2) It shall be deemed to have come into force on the 23rd day of January, 1992.

15 of 1920.

2. After section 4 of the Indian Red Cross Society Act, 1920 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

Insertion
of new
sections
4A to 4E.

“4A. The President of India shall be the President of the Society (hereinafter referred to as the President).

President
of the
Society.

4B. (1) Notwithstanding anything contained in section 3, the Managing Body shall consist of the following members, namely:—

Composi-
tion of
Managing
Body.

(a) a Chairman to be nominated by the President for such term as he may deem fit;

(b) six members to be nominated by the President for such term as he may deem fit;

(c) twelve members to be elected by the State Branch Committees for a term of two years in accordance with the rules made by the Managing Body under section 5:

Provided that not more than one member shall be elected by any State Branch Committee:

Provided further that no member, elected under this section, shall hold office continuously for more than two terms.

(2) The Managing Body existing immediately before the commencement of the Indian Red Cross Society (Amendment) Act, 1992 shall cease to exist and the Chairman and all the members of the said Body shall be deemed to have vacated their offices on such commencement and the Managing Body shall be reconstituted within a period of six months from such commencement in accordance with the provisions of sub-section (1) and until it is so reconstituted, the President may authorise any person or body of persons to exercise and discharge all the powers, functions and duties which may, under the provisions of this Act or the rules made thereunder, be exercised or discharged by or on behalf of the Managing Body.

Secretary-General and Treasurer of the Society.

4C. (1) The Managing Body shall, with the previous approval of the President, appoint a Secretary-General and a Treasurer of the Society.

(2) The term of office and the conditions of service of the Secretary-General and the Treasurer shall be such as the Managing Body may determine by rules made under section 5:

Provided that the term of office and conditions of service of the Secretary-General and the Treasurer may be varied in like manner by the Managing Body:

(3) Notwithstanding anything contained in any contract or agreement and notwithstanding any judgment, decree or order of any court, tribunal or authority or anything contained in any other provision of this Act or the rules made thereunder, the term of office and conditions of service of any person appointed as the Secretary-General of the Society at any time before the commencement of the Indian Red Cross Society (Amendment) Act, 1992 may be varied by the Managing Body with the previous approval of the President.

Powers and functions of the Chairman and Vice-Chairman.

4D. (1) The powers and functions of the Chairman shall be—

(a) to preside over the meetings of the Managing Body and all other Committees set up by the Managing Body of which he is the Chairman;

(b) to re-appropriate, on the advice of the Treasurer of the Society, budgetary allocation from one major head of account to another major head of account;

(c) to authorise, on the advice of the Treasurer of the Society, expenditure on items not contemplated in the annual Budget of the Society, subject to the availability of funds;

(d) to institute, if necessary, disciplinary proceedings against officers of and above the rank of Deputy Secretary of the Society:

Provided that the final decision on the basis of the disciplinary proceedings so instituted shall be taken,—

(i) in the case of the Secretary-General of the Society, with the previous approval of the President;

(ii) in other cases, with the previous approval of the Managing Body.
(2) The powers and functions of the Vice-Chairman shall be,—

(a) to exercise the powers and perform the functions conferred on the Chairman under sub-section (1) or delegated to him under sub-section (3), in the absence of the Chairman on leave or on tour abroad or for any other similar reasons;

(b) to act as *ex officio* member in all the Committees or Sub-Committees appointed by the Managing Body.

(3) The Chairman and the Vice-Chairman shall, in addition to the powers exercisable by them under sub-sections (1) and (2), exercise such other financial and administrative powers as may be delegated to them by the Managing Body in accordance with rules made by it under section 5.

4E. (1) If, at any time, the President is of opinion—

(a) that there has been gross failure in the management of the affairs of the Society by the Managing Body; or

(b) that the Managing Body is acting in a manner which is prejudicial to carrying out the objectives of the Society,

Powers
of the
President
to super-
sede the
Managing
Body.

the President may, by order in writing, supersede the Managing Body for such period, not exceeding six months, as may be specified in the order:

Provided that before issuing an order under this sub-section, the President shall give a reasonable opportunity to the Managing Body to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Managing Body.

(2) Upon the issue of an order under sub-section (1) superseding the Managing Body,—

(a) all the members of the Managing Body shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, under the provisions of this Act or the rules made thereunder, be exercised or discharged by or on behalf of the Managing Body, shall, until the Managing Body is re-constituted, be exercised and discharged by such person or body of persons as the President may appoint in this behalf.

(3) On the expiration of the period of supersession specified in the order issued under sub-section (1), the President may extend the period of supersession for such further period, not exceeding six months at a time, as may be recommended by the person or body of persons appointed under clause (b) of sub-section (2);

Provided that the President may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or extended under this sub-section, take such steps as are necessary to re-constitute the Managing Body in accordance with the provisions of section 4B.

Amend-
ment of
section
5.

3. Section 5 of the principal Act shall be re-numbered as sub-section (1) thereof and—

(a) in sub-section (1) as so re-numbered,—

(i) in the opening portion, for the words "subject to the condition of previous publication", the words "with the previous approval of the President" shall be substituted;

(ii) for clause (d), the following clause shall be substituted, namely:—

"(d) the procedure of election of members by State Branch Committees;"

(iii) for clauses (ee) and (f), the following clauses shall be substituted, namely:—

"(f) the powers exercisable by the Managing Body in supervising the activities of State Branch Committees;

(g) delegation of financial and administrative powers to the Chairman and the Vice-Chairman;

(h) disqualifications for membership of the Managing Body;

(i) the term of office and conditions of service of the Secretary-General and the Treasurer and other officers of the Society;

(f) the regulation of the procedure generally of the Society and Managing Body;"

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) The Central Government shall cause every rule made under this section to be laid as soon as may be after the rule is made before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

Amend-
ment of
section
12,

4. In section 12 of the principal Act, the words "to regulate its own procedure and constitution," shall be omitted.

Ord. 3 of
1992.

5. (1) The Indian Red Cross Society (Amendment) Ordinance, 1992 is hereby repealed.

Repeal
and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Indian Red Cross Society Act, 1920 governs the functioning of Red Cross Society all over the country. The working of the Act during the past 70 years has shown many loopholes. The Act does not contain sufficient provisions relating to appointment of President of the Society, composition of the Managing Body, appointment of Secretary-General and Treasurer. The entire management structure has been left to be decided by the Managing Body by rules made by it. As a result, even the President and Chairman of the Society are unable to exercise proper supervision and control. On account of internal wranglings, the Society has not been able to discharge the statutory responsibilities like holding the Annual General Meeting, passing of Annual Accounts and approval of the budget. It has also not been possible to appoint a regular Secretary-General in view of several litigations.

2. The Indian Red Cross Society (Amendment) Ordinance, 1992 was, accordingly, promulgated by the President on 23rd day of January, 1992 to correct the above-mentioned distortions and to amend the Act suitably to plug loopholes therein, so that the affairs of the Society are managed and regulated properly to achieve the objectives for which the Society was established. The Ordinance made provisions relating to composition of the Managing Body and provided that the Managing Body existing immediately before the promulgation of the Ordinance shall cease to exist and a new Managing Body be re-constituted within a period of six months from the date of the Ordinance. Provisions were also made for empowering the Managing Body to appoint a Secretary-General and a Treasurer of the Society and laid-down their conditions of service in the rules to be made by it. It also provided for delegation of financial and administrative powers to the Chairman and Vice-Chairman, laying down the qualifications and disqualifications of the members of the Managing Body. It also empowered the President of the Society to supersede the Managing Body if there is gross failure in the management of the affairs of the Society or in other cases where the Managing Body acts in a manner which is prejudicial to carrying out the objectives of the Society.

3. The Bill seeks to replace the said Ordinance.

NEW DELHI;

M. L. FOTEDAR.

The 19th February, 1992.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to insert new sections 4A to 4E in the Indian Red Cross Society Act, 1920. Section 4B provides that twelve members to be elected by the State Branch Committees of the Society for a term of two years shall be elected accordance with the rules to be made by the Managing Body of the Society under section 5 of the Act. Section 4C provides that the term of office and the conditions of service of the Secretary-General and the Treasurer of the Society shall be regulated by the Managing Body in accordance with the rules made under section 5. The said conditions of service can also be varied by rules made by the Managing Body. Section 4D provides that the Chairman and Vice-Chairman shall exercise certain financial and administrative powers which may be delegated to them by the Managing Body in accordance with rules made by it under section 5. Section 4E empowers the President of the Society to supersede the Managing Body for such period, not exceeding six months, as he may specify by order.

2. The aforesaid matters are matters of detail and it is not possible to make provision in that behalf in the Bill. The rules to be made by the Managing Body are required to be laid before Parliament. The delegation of legislative powers is, therefore, of a normal character.

BILL NO. 33 OF 1992

A Bill to provide for the declaration of the Kollam-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal Canals to be a national waterway and also to provide for the regulation and development of the said stretch and the Canals for purposes of shipping and navigation on the said waterway and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the National Waterway (Kollam-Kottapuram Stretch of West Coast Canal and Champakara and Udyogmandal Canals) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. The Kollam-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal Canals, the limits of which are specified in the Schedule, is hereby declared to be a national waterway.

Declara-
tion of
Kollam-
Kotta-
puram
stretch of
West
Coast
Canal
and
Champa-
kara and
Udyog-
mandal
Canals
to be a
national
water-
way.

3. It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of Kollam-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal Canals for purposes of shipping and navigation on the national waterway to the extent provided in the Inland Waterways Authority of India Act, 1985.

Declara-
tion as
to expe-
diency of
control
by the
Union of
Kollam-
Kotta-
puram
stretch
of West
Coast
Canal
and
Champa-
kara and
Udyog-
mandal
Canals
for
certain
pur-
poses.

THE SCHEDULE

(See section 2)

LIMITS OF THE NATIONAL WATERWAY (KOLLAM-KOTTAPURAM STRETCH OF WEST COAST CANAL AND CHAMPAKARA AND UDYOGMANDAL CANALS)

The northern limit of the West Coast Canal shall be a line drawn across the river Periyar parallel to Kottapuram road bridge (NH-17) connecting Maliankara and Valipanikan Thuruthu at a distance of 1.0 kilometre upstream, and the southern limit shall be a line drawn across the Ashtamudi Kayal at a distance of 100 metres south of Kollam jetty.

The Champakara Canal starting from the confluence with the West Coast Canal and ending at the railway bridge (railway siding for Cochin Oil Refinery) near Fertilizers and Chemicals Travancore Limited, boat basin.

The Udyogmandal Canal starting from the confluence with West Coast Canal and ending at the Padalam road bridge (Eloor-Edayar).

STATEMENT OF OBJECTS AND REASONS

In view of lack of suitable organisation and the paucity of resources with the State Governments, the development of Inland Water Transport has not made much headway. There are certain advantages in this mode of transport, such as low cost of transport, energy efficiency, generation of employment among weaker sections of the community and less of pollution. The various committees set up by the Government for the purposes of looking into this matter recommended that the Central Government should declare certain waterways as national waterways and assume responsibility for their development.

2. The Central Government have already constituted the Inland Waterways Authority of India under the Inland Waterways Authority of India Act, 1985 (82 of 1985) for the regulation and development of inland waterways for purposes of shipping and navigation.

3. Allahabad-Haldia stretch of the Ganga-Bhagirathi-Hooghly river and the Sadiya-Dhubri stretch of the Brahmaputra river have already been declared as national waterways and the Inland Waterways Authority of India has taken up the development, maintenance and management of these waterways.

4. It is now proposed to declare the Kollam-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal Canals as the third national waterway. Information currently available indicates that the infrastructural facilities essentially required for safe and convenient shipping and navigation are not adequate for sustained operation by large mechanised crafts. Regulation and development of Kollam-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal Canals for purposes of shipping and navigation on the proposed national waterway under the control of the Union is in the public interest and declaration to that effect has also been made in the Bill.

5. The Bill seeks to achieve the above objects.

NEW DELHI;

JAGDISH TYTLER.

The 14th February, 1992.

FINANCIAL MEMORANDUM

The effect of clause 3 of the Bill will be to entrust the responsibility to regulate and develop the proposed national waterway for the purposes of shipping and navigation to the Union. The regulation and development of the proposed national waterway will be carried out by the Inland Waterways Authority of India constituted under the Inland Waterways Authority of India Act, 1985 (82 of 1985). Consequently, three distinct functions, namely, development, maintenance and management will devolve on the Inland Waterways Authority of India. The financial implications are indicated in the succeeding paragraphs.

2. It has been visualised that the total originating and terminating traffic is expected to be handled at 15 terminals, namely, Kottapuram, share of Inland Water Transport would be 2.00 million tonnes. After full development of the proposed national waterway, the anticipated Inland Water Transport traffic may be 3.5 million tonnes by 1994-95. This traffic is expected to be handled at 15 terminals, namely, Kottapuram, Ernakulam, Cochin, Vaikom, Shartallai, Vechoor, Ambalapuzha, Trikkummapuzha, Arattupuzha, Kayamkulam, Chavara, Ashtamudi, Arookutty, Allepey and Kollam.

3. The development of the canals and the infrastructural facilities so as to cater to the requirements of shipping and navigation to handle the above-mentioned traffic include development of the waterway for navigation, channel marking, construction of jetties, transit sheds, installation of handling equipment, etc. It is estimated that the expenditure with respect to the said infrastructural facilities will be of the order of Rs. 62.00 crores. This expenditure will be of a non-recurring nature.

4. In addition to the said expenditure of non-recurring expenditure, it is estimated that an expenditure of recurring nature of the order of Rs. 5.28 crores annually will be incurred for operating the waterway and terminals.

5. The declaration of the proposed stretch of the West Coast Canal and Chāmpakara and Udyōgmāṇḍal Canals as National Waterway and to provide for the regulation and development of the said canal for purposes of shipping and navigation is not expected to involve any other expenditure of recurring or non-recurring nature.

BILL No. 34 OF 1992

A Bill further to amend the Destructive Insects and Pests Act, 1914

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Destructive Insects and Pests (Amendment and Validation) Act, 1992.

Short
title
and
com-
mence-
ment.

(2) It shall be deemed to have come into force on the 27th day of October, 1989.

2. In section 3 of the Destructive Insects and Pests Act, 1914 (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 3
of Act
2 of 1914.

“(3) The Central Government may, by notification under this section, also levy and collect such fees at such rates and in such manner as may be specified therein for making an application for a permit to import, or for making inspection, fumigation, disinfection, disinfestation or supervision of, any article or class of articles or any insect or class of insects under this section.”.

3. (1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority,—

Vali-
dation.

(i) the notification No. S.O. 867 (E), dated the 27th October, 1989 issued under sub-section (1) of section 3 of the principal Act, and

(ii) any fees levied or collected or purported to have been levied or collected for making an application for a permit to import, or for making inspection, fumigation, disinfection, disinfestation or supervision of any article or class of articles or any insect or class of insects under the principal Act or the said notification,

shall, for all purposes, be deemed to be and to have always been validly issued or, as the case may be, levied or collected in accordance with the provisions of section 3 of the principal Act as amended by this Act, and accordingly—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any fees so collected;

(b) no court or other authority shall enforce any decree or order directing the refund of any fees so collected;

(c) any fees levied or purported to have been levied but not collected, may be recovered under the principal Act as amended by this Act; and

(d) anything done or any action taken or purported to have been done or taken under or for the purposes of the principal Act shall be deemed to have been validly done or taken in accordance with law as if, the provisions of section 3 of the principal Act as amended by this Act had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of the principal Act, as amended by this Act, or the notification issued under section 3 of the principal Act, the levy or collection of such fees; or

(b) from claiming refund of any fees paid by him in excess of the amount due from him under the principal Act, as amended by this Act, or the said notification.

4. (1) The Destructive Insects and Pests (Amendment and Validation) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Repeal
and
saving.

Ord. 4 of
1992.

STATEMENT OF OBJECTS AND REASONS

The Destructive Insects and Pests Act, 1914 was enacted to prevent the import and transport of any insect, fungus or other pests which may be destructive to crops. Section 3 of the said Act empowered the Central Government to prohibit or regulate the import of any article or class of articles likely to cause infection to any crop. In exercise of that power, the Central Government, by Notification dated 27th October, 1989, made an order for matters relating to inspection, fumigation, disinfection and supervision of some articles such as plants, fruits and seeds which were imported into India. Fees were also provided to be levied and collected for the aforesaid purposes. Under the New Seed Policy, the import of seeds and plant materials was brought under Open General Licence resulting in heavy import thereof. The Government had, therefore, to strengthen the infrastructural facilities and services of Plant Quarantine organisations in order to prevent the entry of exotic diseases through such imported consignments.

2. The Calcutta High Court in a writ petition held that the aforesaid Act did not empower the Government to levy any fees for inspection, fumigation, etc. The Bombay High Court also in a case struck down the imposition of fees and directed the refund of money.

3. It was considered necessary to enable the Government to levy and collect fees for the services rendered and for meeting expenditure on maintaining Plant Quarantine organisations. It was also necessary to validate the levy and collection of fees made earlier. In the circumstances, suitable provisions in the aforesaid Act empowering the Central Government to levy fees for inspection, fumigation, etc., on imported consignments and for validation of the fees already levied or collected were, therefore, required to be made.

4. The Ordinance, namely, the Destructive Insects and Pests (Amendment and Validation) Ordinance, 1992 was, therefore, promulgated by the President on 25th January, 1992.

5. The Bill seeks to replace the said Ordinance and to achieve the aforesaid objects.

NEW DELHI;

BAL RAM JAKHAR.

The 20th February, 1992.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to empower the Central Government to specify the fees for inspection, fumigation, disinfection, etc., and the manner in which the fees may be levied and collected.

2. The matter in respect of which the Central Government is being empowered relate to matters of procedure and detail. The delegation of legislative powers is, therefore, of a normal character.

C. K. JAIN,
Secretary-General.